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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,232	12/21/2001	Ghulam Hasnain	10001379-1	8798

7590 06/27/2003  
AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
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EXAMINER

MONBLEAU, DAVIENNE N

ART UNIT PAPER NUMBER

2828

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/026,232

Applicant(s)

HASNAIN ET AL.

Examiner

Davienne Monbleau

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.


- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

  
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**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 5, 7, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Ibbetson et al. (U.S. Patent No. 6,515,313). Regarding Claims 1 and 7, Ibbetson et al. disclose in Figure 9A an optical semiconductor device comprising a plurality of semiconductor layers including a n-p junction between an n-type layer (86) and a p-type layer (84), an active layer (85), and further disclose in Figure 8B that said active layer is grown on a base layer (81) such that the polarization field is directed from said n-layer to said p-layer.

Regarding Claims 2 and 8, Ibbetson et al. disclose in column 2 lines 49-50 GaN semiconductor layers.

Regarding Claim 4, Ibbetson et al. disclose in column 2 lines 1-10 that said GaN base layer might have a wurtzite structure which has a c-axis ([0001] orientation). Note that Examiner views Applicant's limitation of a reverse axis as being non-limiting due to the fact that any axis as both a forward and a reverse orientation.

Regarding Claim 5, Ibbetson et al. disclose in column 11 line 40 MBE to form layers.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ibbetson et al. (U.S. Patent No. 6,515,313) in view of Holonyak, Jr. (U.S. Patent No. 6,369,403). Ibbetson et al. do not teach a reverse biased tunnel diode. Holonyak, Jr. teaches in Figure 1 a semiconductor device comprising a tunnel junction (125) and further teaches in Claim 19 that said junction is reverse biased. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a tunnel junction in Mendez et al., as taught by Holonyak, Jr., to facilitate the transferring of electrons through the diode for more efficient output.

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibbetson et al. (U.S. Patent No. 6,515,313) in view of Anayama et al. (U.S. Patent No. 5,799,027).

Art Unit: 2828

Ibbetson et al. do not teach an angled active layer. Anayama et al. teach in Figure 1 a semiconductor device comprising an angled substrate. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an angled active layer in Mendez et al., as taught by Anayama et al., to confine light in both the perpendicular and lateral directions.

(See Anayama et al. column 2 lines 1-5).

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibbetson et al. (U.S. Patent No. 6,515,313) in view of Smith et al. ("Determination of wurtzite GaN..." and Tsuda et al. (U.S. Patent No. 6,294,440). Ibbetson et al. teach in column 2 lines 1-15 crystal layers grown along the 0001 orientation, such as wurtzite GaN crystals, but do not teach the specific growing method of said GaN base layer. Smith et al. teach in the abstract the properties of the Ga side of the crystal and the N side of the crystal and Tsuda et al. teach in column 3 lines 46-50 growing a GaN layer on a substrate, removing the substrate, and then using the GaN layer as a base layer. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine optimum side of the crystal (normal or reversed) on which to grow the semiconductor layers and method on how to create the base layer. The technique of growing a layer of semiconductor material on a substrate is known in the art.

Regarding Claim 10, Ibbetson et al. teach in column 11 line 40 MBE to form layers.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2828

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davienne Monbleau whose telephone number is 703-306-5803.

The examiner can normally be reached on Mon-Fri 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on 703-308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

*Davienne Monbleau*

DNM  
June 24, 2003

*Paul Ip*

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